EXHIBIT #7

IN SUPPORT OF PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF
JOINT MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEFF POKORNY, LARRY BLENN, and
KENNETH BUSIERE, on behalf of
themselves and those similarly
situated,

   Plaintiffs,

 v.

QUIXTAR INC., et al.,
   Defendants.

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Case No. 07-0201 SC

SUPPLEMENTAL DECLARATION OF
DAVID C. HOLLAND REGARDING EMAIL
NOTICE DELIVERY RATES

I, David C. Holland, declare as follows:

  1. I am an Executive Vice President with Rust Consulting, Inc. ("Rust Consulting").
My business address is 625 Marquette Avenue, Suite 880, Minneapolis, Minnesota 55402-2469.
My telephone number is 612-359-2054. I am over twenty-one years of age and am authorized to
make this declaration on behalf of Rust Consulting and myself.

  2. Rust Consulting has extensive experience in class action matters, having provided
services in class action lawsuits affecting millions of class members in cases involving
employment, consumers, property, insurance, securities, and product liability, among its more than
3,000 projects.

  3. Except as otherwise stated, I am fully familiar with and have personal knowledge
of the matters in this declaration and am competent to testify about them if called upon to do so.

1   4.   Rust Consulting has been engaged by counsel to provide notice and settlement

2   administration services in *Pokorny v. Quixtar, Inc. et al.*

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4   **EMAIL NOTICE DELIVERY RATES**

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6   5.   Rust Consulting has designed and overseen implementation of email notice

7   programs totaling more than 45 million email notices spanning more than two dozen class action

8   settlements. Among Rust's experience with email notice are the following cases, wherein courts

9   have approved class notice via email:

10   a.   *Kaen v. Sony Computer Entertainment America, Inc.*, No. CIV 424010 (Cal.

11   Super. Ct. San Mateo County).

12   b.   *Schaffer v. Hewlett-Packard Co.*, No. 04-71391 (E.D. Mich.).

13   c.   *Ambrogi v. Verizon Internet Services Inc.*, No. BC 328283 (Cal. Super. Ct.

14   Los Angeles County).

15   d.   *Online Merchant Systems, Inc. v. Overture Services, Inc.*, No. 05-4833

16   (C.D. Cal.).

17   e.   *Perez v. Asurion Corp.*, No. 06-20734 (S.D. Fla.).

18   f.   *Microsoft I-V Cases*, JCCP No. 4106 (Cal. Super. Ct. San Francisco

19   County).

20   g.   *In re Dynamic Random Access Memory (DRAM) Antitrust Litig.*, No. M-02-

21   1486 & MDL No. 1486 (N.D. Cal.).

22   h.   *Checkmate Strategic Group v. Yahoo! Inc.*, No. 2:05-cv-04588 (C.D. Cal.).

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24   6.   An assortment of factors can prevent email notices from reaching their intended

25   audiences. Among these are spam filters and "bouncebacks." These terms are described below.

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7. Spam refers to unwanted email; spam filters are services that exist to segregate messages presumed to be spam from legitimate email. There is no way to ensure that emails are safe from every spam filter. However, Rust Consulting not only complies with the CAN-SPAM law, but employs a number of techniques in an attempt to minimize the number of email notices caught by spam filters. Among these are the avoidance of certain words and phrases, sending notices in manageable batches over time, and notifying large ISPs and IP providers of the purpose of the email.

8. Bouncebacks fall into two primary categories of undeliverable email: "hard bounce" and "soft bounce." Hard bounce means the addressee's domain has rejected the email, which is common when the email account has been deleted or if the Internet Service Provider ("ISP") itself no longer exists. Soft bounce means that a server recognizes the email address exists, but that it is full or that the user has not yet downloaded messages.

9. Delivery rates have varied widely across different email notice programs. A sampling of eight relatively high-volume email notice programs carried out by Rust Consulting shows an average undeliverable rate of approximately 19.73 percent. The outliers among this group are a low undeliverable rate of 8.71 percent and a high undeliverable rate of 34.94 percent.

10. Rust Consulting understands that 100% of the database records in this case will include a mailing address and that a subset of database records will additionally include an email address. For any emailed notices determined to be undelivered, Rust Consulting will mail a postcard notice to each record's most updated address.

11. The cost to prepare and send email notice is $0.02 each. The cost to print and mail postcards, including postage at current rates, is $0.28 each. If all class members were to receive a postcard for the initial notice, Rust understands that we would need to print and mail an additional

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DECLARATION OF DAVID C. HOLLAND

1   864,000 postcards. The incremental cost per notice going from email to postcard is $0.26 ($0.28-

2   $0.02) and the total incremental cost would be $224,640 (864,000 x $0.26).

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4   I declare under penalty of perjury under the laws of the State of Minnesota and the United States

5   of America that the above is true and correct to the best of my knowledge and that this Declaration

6   was executed this 10th day of November, in Minneapolis, Minnesota.

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9   DAVID C. HOLLAND

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